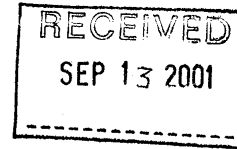




COMMISSIONER
WAGE AND INVESTMENT DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
ATLANTA, GA 30308

September 13, 2001



MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR
TAX ADMINISTRATION

FROM:

John M. Dalrymple
John M. Dalrymple
Commissioner, Wage and Investment Division

SUBJECT:

Draft Letter Report - Write-off of Taxes Owed Resulted in
Inequitable Treatment of Taxpayers (Audit #2001-40-027)

I appreciate the opportunity to respond to your draft report, "Write-off of Taxes Owed Resulted in Inequitable Treatment of Taxpayers." Your report acknowledged our success during transition in moving our inventory to the appropriate Automated Collection System (ACS) collection sites and in training our employees to work those cases.

Section 3401 of RRA '98 gave taxpayers significant new rights before the IRS can take enforcement actions to collect overdue taxes, including placing a lien on the taxpayer's assets. These procedural provisions added new requirements to a collection process that was already complex and time-consuming because of existing notice and procedural practices and the IRS' outdated computer systems. Implementing the new laws required the IRS to:

- Make programming changes
- Develop new notice procedures
- Develop Collection Due Process procedures/systems
- Train our employees on how to take enforcement actions, when appropriate, while complying with the RRA '98 statutory provisions

Developing and executing implementation actions within existing resources caused a significant reduction in the number of collection enforcement actions taken in 1999. We also experienced growth in the size and age of inventories.

Your report notes the IRS began a process that automatically removes cases from inventory to reduce its older inventory and more promptly collect outstanding taxes. As the IRS addressed the large number of cases qualifying for this action and attempted to

level notice issuance and telephone traffic, we unfortunately provided a period of a few weeks when some cases were systemically removed without us taking the proper actions to protect revenue and ensure we made proper lien filings. We agree we should follow lien-filing procedures for cases automatically removed from the ACS inventory. We regret we did not fully consider these procedures during these few weeks in 2000.

Recognizing the likelihood of collection decreases over time, we continue to work to shorten the time it takes an IRS employee to contact the taxpayer to resolve the issue. At the same time, the Wage and Investment (W&I) Division is preparing to implement the IRS Service Center Transition in FY 2002, which includes hiring and training more than 300 new ACS frontline employees and transitioning the existing St. Louis and Dallas ACS call sites to Toll-free Operations. We are concerned that diverting resources from current work to review the 57,000 cases that may have slipped through the system during these few weeks in 2000 would have a negative impact on current collection efforts. We believe our resources are more appropriately applied to working existing inventories today and taking actions to ensure no recurrence of the systemic breakdown.

We are concerned about your calculation of the outcome measure of revenue protection. We protect revenue by filing a Notice of Federal Tax Lien, to the extent that the taxpayer has property, or rights to property, to which the federal tax lien attaches. An analysis of the marginal increase in collectibility is needed to determine the amount of revenue we could protect. For your analysis to support the conclusion that the lien filings would have protected \$500 million, we must assume the amount owed is 100 percent collectible and only if notices of lien are filed. Both assumptions are incorrect. For example, the statutory lien allows us to offset overpayments for the life of the collection statute – no filing is necessary.

We are also concerned because the sample size reflected in your report does not appear to sufficiently represent the total population of cases. You cannot apply findings to the total population unless they are based on a random, statistically valid sample. You indicate that this was not done, but that you used two "judgement" samples. In addition, the method you used incorrectly subtracts the cost of lien filing from the projected benefit. We debit lien fees, like other costs of collection, from the taxpayer's account and include them in the total balance covered by the filing. If the report had included an analysis of the marginal revenue protected by filing, you should also include a portion of the lien fees in the amount of revenue protected.

Our comments on your recommendations are as follows:

IDENTITY OF RECOMMENDATION 1

The Commissioner, Wage and Investment Division, should identify and review all cases automatically removed from the ACS inventory that met the required lien filing criteria to ensure liens were filed when appropriate. In addition, ensure proper lien filing procedures are followed for future cases removed from the ACS inventory.

ASSESSMENT OF CAUSE

To address the significant growth in inventories, in June 2000 the Assistant Commissioner (Collection) took actions to systemically remove older cases from active collection inventories. At that time, most of the cases qualifying for lien filing determinations had not had any recent contact. Therefore, we had to contact the taxpayers before filing the Notice of Federal Tax Lien. We issued the Annual Reminder Notice (LT39) on all cases meeting lien-filing criteria. At the same time, ACS was also resuming the issuance of systemic Final Notices (LT11). To protect revenue and ensure conformance with lien filing procedures, we arranged for all LT39 cases to move systemically to a protected ACS inventory (R7). In R7, we protect cases from automatic removal. Because of the large volume of TDA inventory qualifying for LT39 issuance, we leveled the volume of issuances during a nine-week period, which helped us manage phone traffic, but unfortunately provided a window of a few weeks when some cases were inappropriately automatically removed before we could move them to R7. Subsequently, all cases meeting Internal Revenue Manual (IRM) criteria and scheduled for automatic removal receive the LT39. If no lien-filing indicator is present, we systemically move these cases to R7, protecting them from automatic removal and giving ACS the opportunity to make a lien filing decision.

CORRECTIVE ACTION

We agree we should follow lien filing procedures for cases automatically removed from the ACS inventory and regret we did not fully consider these procedures during these few weeks in 2000. We recognize the likelihood of collection diminishes over time; therefore, we continue to work to shorten the time it takes for an IRS employee to contact the taxpayer to resolve the issue. At the same time, the W&I Division is preparing to implement the IRS Service Center Transition in FY 2002, which includes hiring and training more than 300 new ACS frontline employees and transitioning the existing St. Louis and Dallas ACS call sites to Toll-free Operations. We are concerned that diverting resources from current work to review the 57,000 cases that may have slipped through the system during these few weeks in 2000 would negatively impact current collection efforts. We believe our resources are more appropriately applied to working existing inventories today and taking actions to ensure no future systemic

breakdowns occur. We have implemented systemic changes to ensure we issue an LT39 on all cases scheduled for automatic removal. We systemically move LT39 cases meeting IRM criteria with no lien-filing indicator to R7 for a lien filing determination.

IMPLEMENTATION DATE

The Assistant Commissioner (Collection) made the systemic changes in June 2000.

RESPONSIBLE OFFICIAL

Director, Collection Strategy Unit, W&I Division

CORRECTIVE ACTION MONITORING PLAN

The W&I Collection Strategy Unit will begin conducting field visitations in early FY 2002. The reviews will cover the procedures for lien determinations. W&I will also coordinate with Small Business/Self-Employed (SB/SE) Division. Completion Date: July 2002.

IDENTITY OF RECOMMENDATION 2

The Commissioner, W&I Division, should ensure that employees receive refresher training on lien filing procedures and that managers institute quality review steps to ensure that lien filing procedures are being properly followed.

ASSESSMENT OF CAUSE

ACS employees did not always follow the IRM lien determination criteria. When ACS employees make lien determinations, they should sufficiently document the history to support the decision.

CORRECTIVE ACTION

In addition to implementing systemic changes to ensure we issue an LT39 on all cases scheduled for automatic removal and systemically move LT39 cases meeting IRM criteria with no lien filing indicator to R7 for a lien filing determination, we will ensure we integrate conformance with lien procedures into our FY 2002 quality review process. We will also include lien determination and documentation criteria in the Continuing Professional Education (CPE) agenda for ACS employees during FY 2002.

IMPLEMENTATION DATE

March 31, 2002

RESPONSIBLE OFFICIAL

Director, Collection Strategy Unit, W&I Division

CORRECTIVE ACTION MONITORING PLAN

We will review the CPE agendas and include lien-filing criteria. The IRS will issue a management directive to instruct ACS employees to sufficiently document lien-filing decisions in ACS case histories. W&I will also coordinate with SB/SE. Completion Date: March 31, 2002

If you have any questions or need additional information, please contact Martin Berdan, Director, Collection Strategy Unit, at (404) 338-8686, or members of your staff may contact Deborah O'Camb, Chief, ACS Policy, Procedures & Assurance, at (407) 660-5820.